

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MAGDALENA TAVELLA,
ANDRES HORACIO FICICCHIA, GONZALO
GARCIA BLAYA, LUCIA MARIANA
HERNANDO, CECILIA DE LORENZO,
ADRIANA ROSA BAGATTIN,
DANIELA PATRICIA GOLDMAN,
MARIANO PABLO FERRARI,
MARIANO GRACIARENA, and
FERNANDO LOUREYRO,

Civil Action No. 13-CIV-4609

Defendants.

**PLAINTIFF'S FEDERAL RULE OF CIVIL PROCEDURE 65(B) AND LOCAL RULE
6.1(d) CERTIFICATION AND DECLARATION IN SUPPORT OF *EX PARTE*
MOTION FOR TEMPORARY RESTRAINING ORDER**

I, Patrick M. Bryan, do hereby declare under the penalty of perjury, in accordance with 28 U.S.C § 1746, that the following is true and correct:

1. I am a Trial Attorney employed by the United States Securities and Exchange Commission (“Commission”), located at 100 F Street, N.E., Washington, DC 20549. I am licensed to practice law in the District of Columbia and the State of Illinois.

2. This declaration is based upon specific facts contained in the Commission’s Complaint and the accompanying brief, declarations and exhibits filed contemporaneously therewith. These submissions demonstrate that the Commission has made a *prima facie* showing

that defendants have offered, sold or transferred securities in violation of Section 5(a) and (c) of the Securities Act of 1933 [15 U.S.C. § 77e(a) and (c)], or are likely to do so absent the emergency relief sought.

3. The Commission has compelling evidence, as set forth in the supporting documents filed contemporaneously herewith, that eight defendants have sold securities for which there was no registration statement in effect (the “Selling Defendants”). These securities were sold in open market transactions. An additional two Defendants have deposited securities into their brokerage accounts for which there is no effective registration statement in effect permitting them to resell these securities (the “Holding Defendants”).

4. The Selling Defendants have obtained millions of dollars of proceeds from their unregistered resale of securities. The Selling Defendants are likely to continue to sell securities without an effective registration statement, and thus they likely will continue to violate the securities laws if emergency relief is not granted. In addition, the Holding Defendants are likely to sell securities held in their brokerage accounts unless the accounts are frozen. Such sales would violate federal securities laws.

5. The Commission maintains that *ex parte* relief is appropriate in this case. First, proceeding on an *ex parte* basis is warranted to increase the likelihood of freezing, and ultimately recovering, proceeds from the unregistered sale of securities.

6. Second, proceeding *ex parte* will help secure, and prevent the destruction of, documents or other evidence of Defendants’ conduct. If Defendants are given advance notice that the Commission is seeking emergency relief, it is possible that they would dissipate or secret proceeds from the unlawful sale of securities and/or destroy documents or evidence. In this case, the Commission has uncovered evidence that Defendants have already transferred approximately

\$16 million to overseas accounts and recently attempted to wire (another) approximately \$8 million to foreign bank accounts. Therefore, the need for *ex parte* relief is particularly acute to preclude any effort at further transfers of funds pending hearing on the Commission's motion.

7. Accordingly, for the reasons set forth above and in the Commission's supporting documents filed contemporaneously herewith, immediate and irreparable injury will result to the Commission and to investors unless this matter is heard *ex parte*. For these reasons, the undersigned counsel has not attempted to give advance notice to defendants, which advance notice should be excused in light of the circumstances present.

8. No prior application for similar relief has been made by the Commission with respect to the Defendants.

I verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

July 3, 2013



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